

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

UNITED STATES OF AMERICA,

vs.

Criminal No: 2:05-cr-119-MEF

DON EUGENE SIEGELMAN, et al.,

**DEFENDANT DON EUGENE SIEGELMAN'S
MOTION TO SUPPLEMENT THE RECORD
ON THE DEFENDANTS' JOINT MOTION FOR NEW TRIAL**

Comes now the Defendant, DON EUGENE SIEGELMAN (Siegelman), by and through his counsel of record, and moves this Honorable Court to supplement the record on the Defendants' Joint Motion for New Trial, and as grounds therefore states as follows:

1. On October 10, 2006, counsel for Governor Siegelman¹ received the attached document [(Exhibit 15)²] via U.S. Mail in envelopes postmarked October 7, 2006.
2. As with Exhibits 10, 11, 12 and 13, this document appears to be a copy of an email from Juror B. It is dated "Sunday, June 25, 2006, 11:31 PM." It appears to be printed from the same G-mail account for Juror B as previously identified in Exhibits 10, 11, 12, and 13.

¹David A. McDonald and Vincent F. Kilborn, III

²A redacted version of Exhibit 15 is attached. Siegelman will file, *in camera*, an unredacted copy of Exhibit 15.

3. From the content of the email, it appears that the addressee is a juror (Juror E) that was not previously identified or discussed in Defendants' Joint Motion for New Trial.

4. The text of this alleged email reads:

proud of u. . .

other 6 kounts

most important. . . .

c.u.n..am

The email concludes with Juror B's name.

5. If authenticated, this document further demonstrates that Juror B made a practice of conducting one-on-one deliberations outside the presence of other jurors. As such, if authenticated, this document further demonstrates that Governor Siegelman was deprived of his Sixth Amendment right to a fair trial.

WHEREFORE, the premises considered, Defendant Governor Siegelman respectfully requests this Honorable Court for leave to supplement the record with this new exhibit, for the relief sought in the Defendants' Joint Motion for New Trial, and for such further, other, and different relief to which Defendant is entitled.

/s/ David A. McDonald

David A. McDonald (MCDOD5329)
KILBORN, ROEBUCK & McDONALD
203 South Warren Street (36602)
Post Office Box 832
Mobile, Alabama 36601
Telephone: (251) 434-0045
Fax: (251) 434-0047

Attorney for Defendant Siegelman

OF COUNSEL:

Vincent F. Kilborn, III (KILBV4483)
W. Perry Hall (HALLW9043)
KILBORN, ROEBUCK & McDONALD
1810 Old Government Street
Post Office Box 66710
Mobile, Alabama 36660
Telephone: (251) 479-9010
Fax: (251) 479-6747

CERTIFICATE OF SERVICE

I do hereby certify that on this 11th day of October, 2006, I electronically filed the foregoing pleading with the Clerk of the Court using the CM/ECF system which will send notification of such to all counsel of record.

/s/ David A. McDonald

DAVID A. McDONALD